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~~CONFIDENTIAL~~

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES NELSEN,

Defendant.

No. CR 09-01168 RMW

STIPULATION TO CONTINUE
MOTIONS DATE AND VACATE STATUS
DATE; ☐ ORDER

It is hereby stipulated between the United States of America, by and through Assistant United States Attorney Jeffrey Schenk and defendant James Nelsen through his counsel Vicki H. Young, that October 9, 2012, hearing date on the Motion for Order Permitting Involuntary Administration of Medication to Restore Competency to Stand Trial filed by AUSA Jeffrey B. Schenk be continued to a status date on Monday, P qxgo dgt'7, 2012, at 9:00 a.m. The reason for this continuance is that the motion was filed on September 14, 2012, two days day before defense counsel left for a ten day vacation. Defense counsel returned to the office on Thursday October 27, 2012. Defense counsel has sent a copy of the BOP evaluation to the psychiatrist who performed the initial evaluation for his review. She does not know how much time the defense expert will require to review the BOP report. She also needs the time to obtain the CJA funding necessary for the defense evaluation of the BOP report. A continuance for a status date on P qxgo dgt'7, 2012, will

1 provide defense counsel sufficient time to determine what needs to be done and and how much time
2 she will require to be prepared for an evidentiary hearing on the motion.

3 It is further stipulated that the status date of October 15, 2012, be vacated.

4 The parties stipulate that the period up to and including P qxgo dgt'7, 2012, is excludable time
5 under the Speedy Trial Act, 18 U.S.C. §3161(h); and the basis for such exclusion is that the motion
6 for involuntary medication is still pending, 18 U.S.C. § 3161(h)(1)(F) as well as the need for
7 additional time for effective preparation for the motion by defense counsel. 18 U.S.C.
8 §3161(h)(8)(B)(iv).

9 It is so stipulated.

10 Dated: October 3, 2012

Respectfully submitted,

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12 /s/
13 VICKI H. YOUNG, ESQ.
Counsel for James Nelsen

14 Dated: October 3, 2012

MELINDA S. HAAG
United States Attorney

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17 /s/
JEFFREY B. SCHENK
Assistant United States Attorney

1 **[] ORDER**

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4 GOOD CAUSE BEING SHOWN, the hearing date for the Motion for Order Permitting
5 Involuntary Administration of Medication filed by AUSA Jeffrey Schenk is continued to a status
6 date on Pqxgo dgt'7, 2012, at 9:00 a.m.

7 The status date of October 15, 2012, is vacated.

8 Under Title 18 U.S. C. §3161(h)(8)(B(iv), the Court finds that this continuance is necessary
9 to allow defense counsel the reasonable time necessary for effective preparation of the defense
10 taking into the account the exercise of due diligence and to permit continuity of counsel.

11 Therefore the ends of justice served by such a continuance outweigh the best interest of the
12 public and the defendants in a Speedy Trial within the meaning of Title 18 U.S.C. §3161(h)(8)(A).

13 As required by 18 U.S.C. §3161 (h)(8)(B(iv), this Court finds that the reason that the ends of
14 justice outweigh the best interest of the public and the defendant in a speedy trial are the denial of
15 the continuance would unreasonably deny the defendant reasonable time necessary for effective
16 preparation of the pretrial motions and defense, taking into account the exercise of due diligence,
17 and would deny the defendant continuity of counsel. 18 U.S.C. §3161(h)(8)(B)(iv).

18 IT IS SO ORDERED.

19 DATED: ~~FEB 17~~ 2012

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21 RONALD M. WHYTE
22 Senior U.S. District Judge
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